Peabody, Daniel (EGLE)

From: Peabody, Daniel (EGLE)
Sent: Tuesday, April 26, 2022 7:07 AM
To: saric.james@epa.gov
Cc: Miller, Megen (AG); Mills, Mark (DNR); Roberts, Keegan (robertsk@cdmsmith.com); Williams, Lisa; Diana, Matthew (DNR); Wesley, Jay (DNR); Alexander, Kyle (EGLE); Haroldson, Derek (EGLE); Jayamani, Indumathy (EGLE); Riley, John (EGLE); Trumble, Luke (EGLE); Kline, David (EGLE); Walczak, Joseph (EGLE)
Subject: EGLE Cover Letter and Detailed Comments_Kalamazoo River Superfund Site_OU5 Area 1 Remedial Reach RA_ERP, SESCP, and WMTDP
Attachments: FINAL_EGLE Cover Letter and Detailed Comments_OU5 Area 1 Remedial Reach RA_ERP_WMTDP_SESCP.pdf

Jim,

Attached are EGLE's comments on the Round 1 submittals for subject work plans that were submitted to support the upcoming remedial action for the Remedial Reach. The Round 1 submittals included the Emergency Response Plan (ERP), the Soil Erosion and Sedimentation Control Plan (SESCP), and the Waste Management, Transportation & Offsite Disposal Plan (WMTDP). Comments on other RA WPs will be submitted under separate cover letters and generally grouped based on the week they were submitted.

As previously requested, I will follow-up this email with an electronic version of our comments for editing.

Thanks,

Daniel Peabody
Environmental Quality Analyst
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes, and Energy
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STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING

GRETCHEN WHITMER
GOVERNOR

LIESL EICHLER CLARK
DIRECTOR

April 25, 2022

VIA E-MAIL and U.S. MAIL

Jim Saric
Remedial Project Manager
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard (SR-6J)
Chicago, Illinois 60604-3511

Dear Jim Saric:

SUBJECT: Michigan Department of Environment, Great Lakes, and Energy (EGLE) Comments on the Emergency Response Plan (ERP) dated April 2022, the Waste Management, Transportation & Off-Site Disposal Plan (WMTDP) dated April 2022, and the Soil Erosion and Sedimentation Control Plan (SESCP) – Remedial Reach dated April 2022, Area 1 of Operable Unit 5 (OU5), Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site (Site).

By way of this correspondence, EGLE formally submits this cover letter and detailed comments (attached) for inclusion in the Administrative Record for the Site.

The draft subject documents that were submitted provide details to support implementation of the Area 1 remedial action (RA). Georgia-Pacific and International Paper are respondents (Respondents) to a Unilateral Administrative Order (UAO) (Docket No: V- W- 17-C-002) for remedial design and remedial action (RD/RA) for Area 1 of OU5. The UAO requires implementation of the Area 1 Record of Decision (ROD) (Appendix A) and the procedures and requirements for implementing the work are outlined in the Statement of Work (SOW) (Appendix B) that is included as an attachment to the UAO. The selected sediment remedy in the Area 1 ROD requires, among other things, excavation of the Crown Vantage Side Channel (CVSC), and select sediment 'hot spots' in a portion of the river referred to as the remedial reach which begins in the city of Kalamazoo near Mayors Riverfront Park and extends approximately three river miles downstream to Parchment.

Following completion of the RD/RA pre-design investigation (PDI) as described in the PDI Evaluation Report Parts 1 & 2, the PDI sampling in 2017 'eliminated' KPT-20 as a 'hot spot' but the PDI sampling identified Verburg Park Pond as a 'hot spot'. At the 30 percent RD phase, the United States Environmental Protection Agency (U.S. EPA) approved a request from the Respondents to splinter the RD/RA for the sediment remedy into three individual components based on location.

The RD and RA for the Crown Vantage Side Channel ‘hot spot’ were completed in 2020 and 2021, respectively. The 95 percent Sediment Remedial Design (95RD)-Remedial Reach, which included design details for ‘hot spots’ KRT-4, KRT-5/FF-19 and SIM-1 was submitted in August 2021, followed by an Addendum that was submitted in October 2021 for Bedform 118 (SED118), which is an additional ‘hot spot’ located upstream of the Verburg Park Pond outlet that was identified during the RD/RA PDI and added to the scope of the RD/RA by the U.S. EPA during development of the 95RD – Remedial Reach. EGLE provided a cover letter and detailed comments on the 95RD – Remedial Reach and Addendum to the US EPA on October 27, 2021. The Final Sediment Remedial Design (100RD) – Remedial Reach was submitted on December 17, 2021, and the U.S. EPA issued an approval of the 100RD and authorization to proceed with RA on February 9, 2022. The sediment RD for the furthest upstream ‘hot spot’ in the Remedial Reach, KPT- 19, is not part of this RD/RA. EGLE expects to receive a standalone RD for KPT-19 soon.

The subject documents were submitted per the requirements of Section 4 of the SOW and provide details for sediment ‘hot spots’ referred to as KRT-4, KRT-5/FF-19, Verburg Park Pond, SED118 and SIM-1, which are in the remedial reach. Similar to the RA work plans and documents that were submitted by the Respondents prior to implementing the RA at the CVSC, an expedited review and comment time is being requested so that the RA can begin at or around June 1, 2022. The ERP was provided on April 1, 2022, the SESCP and WMTDP were provided on April 5, 2022.

EGLE’s comments were developed after reviewing the subject documents, presentation slides provided during work groups meetings that were held on March 29, April 11 and April 12, and following a site visit to the proposed staging areas that was held on April 7 and attended by the U.S. EPA and their consultant (Jacobs Engineering), EGLE, the Area 1 Respondents and their respective consultants (Wood Environment & Infrastructure Solutions [Wood], and GeoSyntec Consultants), and the contractor that was selected by the Respondents to implement the RA (Sevenson Environmental Services).

EGLE’s comments on the subject documents are relatively minor and mostly suggestive in tone and nature, the one exception being comments on the WMTDP. Based on discussions during one of the work group meetings held after the first round of RA work plan submittals and EGLE’s review of the Area 1 Feasibility Study (FS) and March 29, 2022, memorandum (Memorandum) from Wood to Republic Services, C&C Landfill, additional discussion on key details in the WMTDP is necessary. Specifically, the WMTDP and Memorandum should be reviewed and discussed by the U.S. EPA and EGLE Materials Management Division, with a focus on the State and Federal Applicable or Relevant and Appropriate Requirements (ARARs) for Area 1. The State and Federal ARARs are contained in the Area 1 FS and some of the ARARs that warrant review are highlighted in the tables below, and additional background on concerns around the WMTDP is provided thereafter.

Action	Requirements	Prerequisite	Citation	Applicable to Sediment/Soil Alternatives	
				Sediment	Soil
Characterization of hazardous waste (all primary and secondary wastes)	Must obtain a detailed chemical and physical analysis on a representative sample of the waste(s), which at a minimum contains all the information that must be known to treat, store, or dispose of the waste in accordance with pertinent sections of 40 C.F.R. Parts 264 and 268.	Generation of RCRA-hazardous waste for storage, treatment or disposal – **applicable**	40 C.F.R. § 264.13(a)(1)	X	X
Determinations for management of hazardous waste	Must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under 40 C.F.R. Part 268 et seq. Note: This determination may be made concurrently with the hazardous waste determination required in Sec. 262.11 of this chapter.	Generation of hazardous waste for storage, treatment or disposal – **applicable**	40 C.F.R. § 268.9(a)	X	X
Determinations for management of hazardous waste	Must determine the underlying hazardous constituents [as defined in 40 C.F.R. § 268.2(i)] in the waste.	Generation of RCRA characteristic hazardous waste for storage, treatment or disposal – **applicable**	40 C.F.R. § 268.9(a)	X	X
Determinations for management of hazardous waste	Must determine if the hazardous waste meets the treatment standards in 40 C.F.R. §§ 268.40, 268.45, or 268.49 by testing in accordance with prescribed methods or use of generator knowledge of waste. Note: This determination can be made concurrently with the hazardous waste determination required in 40 CFR 262.11.	Generation of RCRA characteristic hazardous waste for storage, treatment or disposal – **applicable**	40 C.F.R. § 268.7(a)	X	X
Temporary on-site storage of hazardous waste in containers (e.g., excavated sediments and soils)	A generator may accumulate hazardous waste at the facility provided that: • Waste is placed in containers that comply with 40 C.F.R. §§ 265.171-173; and • The date upon which accumulation begins is clearly marked and visible for inspection on each container; and • Container may be marked with other words that identify the contents. • Container is marked with the words "hazardous waste"; or	Accumulation of RCRA hazardous waste on site as defined in 40 C.F.R. § 260.10 – **applicable** Accumulation of 55 gal. or less of RCRA hazardous waste or one quart of acutely hazardous waste listed in 261.33(e) at or near any point of generation – **applicable**	40 C.F.R. § 262.34(a)(1)(i); 40 C.F.R. § 262.34(a)(2) &(3); 40 C.F.R. § 262.34(c)(1)	X	X
Use and management of hazardous waste in containers	If container is not in good condition (*e.g.* , severe rusting, structural defects) or if it begins to leak, must transfer waste into container in good condition. Use container made or lined with materials compatible with waste to be stored so that the ability of the container is not impaired. Keep containers closed during storage, except to add/remove waste. Open, handle and store containers in a manner that will not cause containers to rupture or leak. Containers having capacity greater than 30 gallons must not be stacked over two containers high.	Storage of RCRA hazardous waste in containers – **applicable**	40 C.F.R. § 265.171 40 C.F.R. § 265.172 40 C.F.R. § 265.173	X	X
Storage of hazardous waste in container area	Area must have a containment system designed and operated in accordance with 40 C.F.R. § 264.175(b).	Storage of RCRA hazardous waste in containers *with free liquids* – **applicable**	40 C.F.R. § 264.175(a)	X	X
Storage of hazardous waste in container area	Area must be sloped or otherwise designed and operated to drain liquid from precipitation, or Containers must be elevated or otherwise protected from contact with accumulated liquid.	Storage of RCRA-hazardous waste in containers that *do not contain free liquids* (other than F020, F021, F022, F023, F026 and F027) –**applicable**	40 C.F.R. § 264.175(c)	X	X
Closure of RCRA container storage unit	At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soils containing or contaminated with hazardous waste and hazardous waste residues must be decontaminated or removed. [Comment: At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with40 CFR 261.3(d) of this chapter that the solid waste removed from the containment system is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262 through 266 of this chapter].	Storage of RCRA hazardous waste in containers in a unit with a containment system – applicable	40 C.F.R. § 264.178	X	X

Action	Requirements	Prerequisite	Citation	Applicable to Sediment/Soil Alternatives	
				Sediment	Soil
Location encompassing aquatic ecosystem as defined in 40 C.F.R. § 230.3(c)	No discharge of dredged or fill material shall be permitted if it: • Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard; • Violates any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act; • Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, or results in the likelihood of the destruction or adverse modification of critical habitat; • Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972. • No discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States • No discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.	Action that involves discharge of dredged or fill material into waters of the United States, including wetlands – **relevant and appropriate**	40 C.F.R. § 230.10(b) 40 C.F.R. § 230.10(c) 40 C.F.R. § 230.10(d)	X	
Presence of any stream or other body of water proposed to be impounded, diverted, controlled, or modified for drainage	Whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.	Federal actions that propose to impound, divert, control, or modify waters of any stream or body of water – **relevant and appropriate**	16 U.S.C. § 662(a)	X	
Water quality-based limits for discharge into navigable waters	Establishes effluent standards in accordance with federal WPCA and CWA. Applicable for alternatives involving discharge of water to the river.	Wastes generated from remedial process to be discharged to river would be subject to the substantive requirements of Part 31 of the NREPA, MCL 324.3101 *et seq* , and Mich Admin Code R. 323.1201-1221; and R. 323.2101-2195 - **relevant and appropriate**	Michigan NREPA, MCL 324.1301 *et seq* , Mich Admin Code R 323.1201-1221; R 323.2101-2195	X	X
Water quality-based limits for discharge to groundwater or the ground	Establishes requirements for discharges of waters or waste to groundwater or to the ground.	Substantive requirements would apply if remedial alternatives involve discharges of wastewater or wastes to groundwater or to the ground - **relevant and appropriate**	Mich Admin Code R 323.2201-2240 (Part 22 Rules for groundwater protection)	X	X
Transportation, storage, and disposal of hazardous waste off site	Establishes requirements for hazardous waste generators, transporters, and treatment/storage/disposal (TSD) facilities. Area 1 is likely not a TSD facility nor a generator of hazardous wastes, although certain portions of the regulations may be useful as a means of determining handling/transportation requirements.	Hazaradous wates generated from remedial process to be transported, stored, and/or disposed of off site as defined in MCL324.11101-11153 - **relevant and appropriate**	Miichigan NREPA, MCL 324.11101-11153	X	X
Disposal of non-hazardous waste off site	Establishes rules for solid waste disposal facilities. Applies to a remedial alternative involving landfilling.	Non-hazardous wasts generated from remedial process to be transported and disposed of off site as defined in MCL 324.11101-11153 and Mich Admin Code R. 299.4401 - 4922 - **relevant and appropriate**	Michigan NREPA, MCL 324.11101-11153 and Mich Admin Code R 299.4401 - 4922	X	X
Regulation of activities in inland lakes or streams to complete remedial actions	Regulates dredging or filling of lake or stream bottoms and establishes mitigation requirments. For certain remedial alternatives, activities may be affected by these regulations.	Dredging or filling will be included in remedial activities as defined in MCL 324.30101 - 30113 - **applicable**	Michigan NREPA, MCL 324.30101 - 30113; Mich Admin Code R 281.811-845	X	X

During the April 7 meeting, the Respondents stated that the vast majority of dredged material would be classified as non-hazardous waste and disposed of at a local Subtitle D landfill, and only a small quantity of generated waste would exceed a concentration of 50 parts-per-million of total polychlorinated biphenyls (PCBs), and therefore require disposal at a landfill that meets the requirements of the Toxic Substances Control Act (i.e., a Subtitle C landfill). The Respondent further stated that, based on analytical data available for non-PCB constituents, no hazardous waste would be generated during the RA.

The WMTD did not summarize the non-PCB data that was used to make that determination and that data had not been shared or discussed with the U.S. EPA and EGLE during the RD. Therefore, EGLE requested that the WMTD Plan be edited to include a summary and presentation of the waste characterization results, or a separate memo that describes the *in-situ* characterization of non-PCB constituents in sediments be provided. In response to that request, Wood provided the Memorandum on April 15. Formal comments on the Memorandum are not included in these detailed comments and will be provided under a separate cover letter for detailed comments on other Area 1 RA submittals that were also submitted around April 11.

EGLE appreciates the opportunity to review and comment on the subject Work Plan for Area and looks forward to working with all parties involved on this project. If you have any questions, please contact Mr. Daniel Peabody, Environmental Quality Analyst, Remediation and Redevelopment Division at 517-285-3924; PeabodyD@Michigan.gov; or EGLE, P.O, Box 30426, Lansing, Michigan 48909-7926.

Sincerely,

Daniel Peabody, Environmental Quality Analyst
Superfund Section
Remediation and Redevelopment Division

Attachments
att/cc: Megen Miller, Michigan Department of Attorney General
Dr. Keegan Roberts, CDM Smith
Dr. Lisa Williams, US Fish and Wildlife Service
Matt Diana, MDNR
Jay Wesley, MDNR
Mark Mills, MDNR
Kyle Alexander, EGLE
Derek Haroldson, EGLE
Indu Jayamani, EGLE
John Riley, EGLE
Luke Trumble, EGLE
David Kline, EGLE
Joseph Walczak, EGLE

GENERAL COMMENTS

Commenting Organization: EGLE

General Comment #1: As EGLE mentioned during the site visit and recent work group meetings held to discuss the Area 1 RA work plans, the Verburg Park remediation support area (identified on Figures as RSA 1) is generally low lying, but the location where dredged materials will be temporarily stockpiled is located along the peninsula that separates Verburg Park Pond from the main channel of the Kalamazoo River making it subject to erosion and mobilization into either waterbody under certain flood conditions (e.g., greater than a 20 or 25 year flood event). The ERP must be revised to include an intense focus on general site cleanup if flood conditions (due to weather or other factors) are predicted, which would include but not be limited to ceasing dredging operations and the emptying and properly disposing of all contaminated material in the SPA.

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Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site

Waste Management, Transportation & Offsite Disposal Plan - Remedial Reach

Kalamazoo River Area 1
April 2022

GENERAL COMMENTS

Commenting Organization: EGLE
General Comment #1: As stated in the cover letter, the WMTDP and information provided in the follow-up Memorandum will need to be reviewed by EGLE MMD and the U.S. EPA for compliance with both State and Federal ARARs related to the characterization, generation, handling, and disposal of waste materials.

SPECIFIC COMMENTS

Commenting Organization: EGLE
Section: 2.4 **Page #: 2 - 2** **Lines #: 1-5**
Specific Comment #1: As discussed during the pre RAWP meeting, indicate that stumps left in place inside of SMAs will be surveyed and each location will be mapped to assist in DMU close out evaluations. Stumps located within DMUs should generally be removed and disposed of accordingly since source materials are often visible within the root mass. Any stumps not removed should be reviewed and approved by EPA.

Commenting Organization: EGLE
Section: 2.5 **Page #: 2 - 2** **Lines #: 1-8**
Specific Comment #2: Indicate what type of vessel the wastewater will be collected in. Also clarify if collection tanks will be part of the initial SPA design as a contingency or if a revised plan will be prepared as needed.

Commenting Organization: EGLE
Section: 4.2 **Page #: 3 - 3** **Lines #: N/A**
Specific Comment #3: EGLE recommends that a wheel wash station be planned and used if trucks carrying sediment have visible amounts of soil on the wheels and/or exterior of the truck bed before leaving the site.

Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site

Soil Erosion and Sediment Control Plan – Remedial Reach

Kalamazoo River Area 1
April 2022

GENERAL COMMENTS

Commenting Organization: EGLE

General Comment #1: The plan is missing sediment control items related to spill control during offloading of scows to the upland processing areas. Clarify where spill aprons or other appropriate BMPs for spill control will be discussed and/or modify this plan to include them.

SPECIFIC COMMENTS

Commenting Organization: EGLE
Section: 3.3 **Page #: 3 - 2** **Lines #: 2-5**
Specific Comment #1: Clarify the requirement in the BMP that states: "at minimum, the top 4 inches of backfill material will have sufficient organic matter to facilitate vegetation growth." Specifically clarify if GP will be adding a minimum of 4 inches of backfill with organic matter everywhere that will be restored.

Commenting Organization: EGLE
Section: 3.3 **Page #: 3 - 2** **Lines #: Dust Control**
Specific Comment #2: Clarify where the dust control monitoring equipment will be installed. For example, will it be a standalone unit or a handheld unit?

Commenting Organization: EGLE
Section: 3.7 **Page #: 3 - 5** **Lines #: N/A**
Specific Comment #3: As discussed during the Pre RA workplan meeting presentation by Wood and Sevenson March 29,2022 a moon pool with turbidity curtain approach is planned. The turbidity curtain description in this section seems to just be a standard turbidity curtain BMP. Describe the proposed system and indicate any differences/requirements for the specific BMPs being proposed.